

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.48543 of 2018 (O&M)

Date of decision: 28th May, 2019

Amarjit Singh @ Raju

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepinder Brar, Advocate for the petitioner.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab
for the respondent/State.

Ms. Gurvir K. Gill, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Amarjit Singh alias Raju in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.21 dated 23.03.2018 under Sections 376, 506 IPC pertaining to Police Station City Fazilka, have been levelled by a deserted lady aged around 28 years having a kid. The allegations are that she had separated from her husband and came in contact with the petitioner and remained in a relationship with him for almost three years and thereafter, differences cropped up between them and on 19.03.2018 she was accompanying the petitioner on a motor bike when on the way near fields the petitioner has defiled her against her wishes leading to registration of the present case in which the petitioner was arrested on 08.06.2018.

Learned counsel for the petitioner Mr. Deepinder Brar, Advocate inter alia contends that both, the complainant and the petitioner, are of married status with kids and were in a physical relationship over a long period of time spanning over three years and the present case has been falsely foisted upon the petitioner on account of their differences and that it was a consensual relationship.

On behalf of the State, Mr. A.S. Sandhu, Additional Advocate General, Punjab on instructions from ASI Jarnail Singh, Police Station City Fazilka, assisted by Ms.Gurvir Kaur Gill, Advocate representing the complainant, though have not displaced the facts that have been canvassed before this Court by learned counsel for the petitioner, but have sought to oppose the grant of relief on the grounds of heinousness of the offence and seriousness of allegations.

Appreciating the arguments of the two sides, admittedly the petitioner as well as the complainant are grown up mature married persons and are admittedly in a relationship for more than three years and thus, a debatable issue having arisen over the very applicability of provisions of Section 376 IPC on account of this consensual physical relationship, which can only be adjudicated at the trial, which is not likely to conclude in the near future. In view thereof, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty

Magistrate, Fazilka. However, anything observed herein above shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

May 28, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No